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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: PROPULSID * Docket MDL NO. 1355-L
PRODUCTS LIABILITY LITIGATION *
* October 11, 2006
*
* New Orleans, Louisiana
* * * * *

STATUS CONFERENCE BEFORE THE
HONORABLE ELDON E. FALLON
UNITED STATES DISTRICT JUDGE

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Proceedings recorded by mechanical stenography, transcript
produced by computer.

TELEPHONE CONFERENCE

(October 11, 2006)

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2
3 **THE COURT:** Hello. Good afternoon. This is Judge
4 Fallon. Who do I have?

5 **THE OPERATOR:** This is the operator. You have
6 currently 11 participants on the line. And do you know about
7 Star 0?

8 **THE COURT:** Yes, we do know that.

9 **THE OPERATOR:** Yes.

10 **THE COURT:** Call the roll.

11 **THE OPERATOR:** You want a roll call?

12 **THE COURT:** Yes.

13 **THE OPERATOR:** I'm going to place you on hold now and
14 I will do the roll call once I take the music out.

15 **THE COURT:** Thank you.

16 **THE OPERATOR:** Thank you.

17 This is your chairperson, Judge Fallon. At this
18 time I would like to give the judge a brief roll call. When I
19 announce your name, say here and who's with you, if anyone.
20 John Hinkle?

21 **MR. HINKLE:** Here.

22 **THE OPERATOR:** Barry Hill?

23 **MR. HILL:** Here.

24 **THE OPERATOR:** Richard Arsenault?

25 **MR. ARSENAULT:** Here.

1 **THE OPERATOR:** James Irwin?

2 **MR. IRWIN:** Here.

3 **THE OPERATOR:** Thank you. Stephen Murray?

4 **MR. MURRAY:** Here.

5 **THE OPERATOR:** Thank you. Monique Garsaud?

6 **MS. GARSAUD:** Here.

7 **THE OPERATOR:** Thank you. Russ Herman?

8 **MR. HERMAN:** Here.

9 **THE OPERATOR:** Thank you. Chuck Preuss?

10 **MR. PREUSS:** Here, with Tracie Militano.

11 **THE OPERATOR:** Thank you. And Daniel Becnel?

12 **MR. BECNEL:** Here.

13 **THE OPERATOR:** And Carol Ingram?

14 **MR. INGRAM:** Here.

15 **THE OPERATOR:** Thank you. Judge, were you able to
16 hear everyone?

17 **THE COURT:** Yes, I was.

18 **MR. HERMAN:** And Leonard Davis also is on the call
19 and Tom Campion is on the call.

20 **THE COURT:** Okay. Folks, we're here for our monthly
21 status conference. I received an agenda from the parties. The
22 first item on the agenda is State Liaison Counsel MDL
23 Resolution Program II. Anything on that?

24 **MR. ARSENAULT:** Richard Arsenault here, Judge. Good
25 afternoon. We have been working hard to try to get our

1 databases right and to identify with particularity who was not
2 enrolled, what their status was in terms of whether their cases
3 were dismissed and whether they were still represented.

4 It's been a difficult task. But I think with a
5 lot of hard work, we've had a lot of success. And everyone
6 we've reached out to, there are only approximately two firms
7 with two to three clients, but the clients seem to want to
8 participate.

9 Special Master Juneau was instrumental recently
10 in helping us engage in a dialog with the Shannon Law Firm out
11 of Mississippi to try one of the cases, and we've got a meeting
12 of minds that they'll participate; and we'll know something
13 firm, hopefully, within the next week or so.

14 But with their participation, we are cautiously
15 optimistic that we either will, or already have, met the
16 minimum enrollments.

17 **THE COURT:** Any response from either Chuck or Tom?

18 **MR. PREUSS:** Yes, Your Honor. If Shannon comes in,
19 as expected, they should meet the goal on personal injury,
20 maybe one short on the wrongful death.

21 **THE COURT:** Okay. All right. Anything else on that?
22 Trust account is number 2. Anything to report on that?

23 **MR. HERMAN:** Russ Herman. I just got a report today
24 from Deutsche Bank and reviewed the report. I also got some
25 figure s two weeks ago and they look very well for us on the

1 investment of the funds.

2 **THE COURT:** Good.

3 **MR. HERMAN:** This day I sent copies of the Deutsche
4 Bank report to the members of the PLC.

5 **THE COURT:** All right. Trial schedule is the third
6 item on the agenda.

7 **MR. CAMPION:** This is Tom. That's been continued
8 without a date, Judge.

9 **THE COURT:** That's the *Gregory A. Gellner versus*
10 *Johnson & Johnson* case. As I understand, it's been continued
11 without date. The fourth item is the MDL mediation and
12 resolution program. Any report on that?

13 **MR. PREUSS:** Your Honor, this is Chuck Preuss again.
14 Mr. Hill and I have had conversations since we last spoke and
15 there are several items under consideration at this time.

16 **THE COURT:** Good. Barry, anything on that?

17 **MR. HILL:** I think the discussions have been
18 substantiative. And the two items -- there are two items: One
19 that I need to qualify with the leadership on my end; and one
20 that Chuck needs to clarify with the company on his end. And
21 after we've done that, we'll be able to talk again and that
22 should be soon.

23 **THE COURT:** Good. I really do encourage both of
24 you-all to try to work on this. It's the way to go on it. I'm
25 hopeful that this situation can be resolved. It's good for the

1 second program, and also for the first program.

2 I, of course, have some control over the end
3 aspect. And rather than redo the whole thing at the end, I'd
4 rather see you-all work it as it's going on. Anything on
5 pro se plaintiffs?

6 **MR. HILL:** Excuse me, Judge. I'm available to talk
7 with you immediately after this call, if you have time. I do,
8 and I'll call you.

9 **THE COURT:** Okay. Pro se plaintiff is the next item,
10 anything on that?

11 **(No verbal response.)**

12 **THE COURT:** Hearing no response, that matter can be
13 passed. Number 6 is emergency motion for distribution of
14 attorney's fees. Any report on that?

15 **MR. LEVIN:** Your Honor, this is Arnold Levin. I
16 apologize for being late. I had the wrong number. I think all
17 of that, the objections, have been tabled and they've agreed to
18 tread water waiting for the next round.

19 **THE COURT:** Okay. Anything further that I haven't
20 taken up that we need take up?

21 **MR. HERMAN:** Your Honor, Arnold and I have a request
22 that if you're available to meet with us anytime on the 18th,
23 we'd like to come in and see you about a matter.

24 **THE COURT:** Okay. Any problem with that, Tom?

25 **MR. CAMPION:** No, Your Honor.

1 **THE COURT:** Russ, I'm at the MDL conference on the
2 18th. I can do it on the 16th. I'm back on the 20th. This
3 conference is the 17th, 18th, and the 19th.

4 **MR. CAMPION:** Russ, how about this Friday in the
5 afternoon or in the morning or something, if the judge is
6 available?

7 **THE COURT:** I'm okay. Friday the 13th, I'm okay.
8 I've got a Vioxx motion.

9 **MR. HERMAN:** Anytime in the afternoon, Your Honor,
10 that would be good for you.

11 **THE COURT:** Anytime, Russ. 1:30 is okay.

12 **MR. HERMAN:** I'll check with Arnold's flight schedule
13 and get back with you today, sir.

14 **THE COURT:** Anything from anybody?

15 **MR. CAMPION:** Judge, it's Tom. I'd like to make one
16 suggestion.

17 **THE COURT:** Yes?

18 **MR. CAMPION:** Assuming that the sight is at the end
19 of MDL 2 -- and I would suggest that you hold the date of the
20 next meeting open for the moment. If Shannon signs sometime in
21 October and other points get clarified, then we can all come in
22 on relatively short notice and all the speeches that have to be
23 made can be made, and all of the questions can be said, and
24 everything would be on the record and then the document can be
25 signed.

1 **THE COURT:** Any problem with that from anyone?

2 **MR. HERMAN:** No, Your Honor, not from plaintiffs.

3 **THE COURT:** Tom, get with me and we'll pick a date
4 and then I'll put it out to everybody. I'll tell Russ.

5 **MR. HERMAN:** Your Honor, we want to make sure that
6 Dawn Barrios, and Richard Arsenault, and Barry Hill, that
7 they're available for whatever dates.

8 **THE COURT:** Sure. That's key. Those folks have been
9 at it from the beginning. Okay. Anything else?

10 **(No verbal response.)**

11 **THE COURT:** Thank you very much.

12 **MR. CAMPION:** Thank you, Your Honor.

13 **THE COURT:** Good-bye.

14 **(WHEREUPON, the telephone conference was concluded.)**

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CERTIFICATE

I, Jodi Simcox, RMR, Official Court Reporter for the United States District Court, Eastern District of Louisiana, do hereby certify that the foregoing is a true and correct transcript, to the best of my ability and understanding, from the record of the proceedings in the above-entitled and numbered matter.

Jodi Simcox, RMR
Official Court Reporter

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